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Ex Parte

May 5, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **CC Docket No. 96-45; Special Access Information**

Dear Ms. Dortch:

Pursuant to the Commission's rules related to the Freedom of Information Act, 47 C.F.R. §§ 0.457 and 0.459, Verizon Communications Inc. ("Verizon") hereby requests confidential treatment of data submitted to the Commission's staff by Verizon in meeting on May 2, 2003 with regard to the above-referenced docket. The data consist of Verizon's special access line counts in the States of Vermont and Maine by wire center. The Common Carrier Bureau has given similar data confidential treatment under its Interim Protective Order. *See Federal-State Joint Board on Universal Service*, 15 FCC Rcd 10183 (Com. Car. Bur. 2000).

(1) Identification of the specific information for which confidential treatment is sought.

Verizon requests that the information in the attached computer disc be treated as confidential information under Exemption 4 of the Freedom of Information Act. The information describes line counts, by wire center, for special access circuits provided by Verizon in Vermont and Maine.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.

Verizon submitted this information to the Commission staff in a meeting held on May 2, 2003 in connection with Docket No. 96-45.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

The information describes line counts, by wire center, of special access circuits that Verizon provides to customers. This is commercially sensitive information that carriers normally keep confidential.

(4) Explanation of the degree to which the information concerns a service that is subject to competition.

The information concerns the provision of high-capacity circuits primarily used by larger institutional and commercial customers, which services are highly competitive. In this market, Verizon competes with competitive local exchange and interexchange carriers that use their own facilities as well as using Verizon's unbundled network elements.

(5) Explanation of how disclosure of the information could result in substantial competitive harm.

If competitors were provided this information, it would allow them to locate and identify Verizon's institutional and commercial customers and to direct marketing efforts toward those customers. For this reason, competitors jealously guard similar information and keep it confidential to the extent possible. Requiring Verizon alone to reveal this information would put it at a competitive disadvantage because it does not have similar information about its competitors' customers.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

This information is kept confidential within Verizon and is not ordinarily disclosed to persons outside the company. This information is restricted within the company to persons with a need to know. Company practices instruct employees not to disclose this information unless required to do so by competent authority. When such information is disclosed in regulatory proceedings voluntarily or by order of the FCC or a state commission, it is accompanied by requests for confidential treatment.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

The material must be kept confidential for an indefinite period. Confidential treatment must be accorded for as long as the information would provide a basis for competitors to target Verizon's customer for data/Internet services. Verizon cannot determine at this time any date by which the information would become "stale" for these purposes.

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

Under applicable Commission and court rulings, this material should be kept confidential and should not be disclosed to the public. Exemption 4 of the Freedom of Information Act shields information from public disclosure that is (1) commercial or financial in nature; (2) obtained from a person outside the government; and (3) privileged or confidential. *See Washington Post Co. v. U.S. Department of Health and Human Services*, 690 F.2d 252 (D.C. Cir. 1982). The attached information clearly meets the first two elements of that test. With respect to the third element of the above test, the Court found in *National Parks and Conservation Ass'n v. Morton*, 498 F. 2d 765, 770 (D.C. Cir. 1974) that information is considered "confidential" if disclosure is likely to (1) impair the government's ability to obtain necessary information in the future, or (2) disclosure is likely to harm substantially the competitive position of the person from whom the information was obtained. Clearly, disclosing information about the wire centers where Verizon provides these highly competitive services would harm Verizon's competitive position and could result in loss of business.

Protective Order Requested

If the Commission does not grant complete confidentiality to the information, it should permit disclosure of the information, other than to a Commission employee working directly on the matter, only if those persons sign the protective agreement in the Bureau's Interim Protective Order. In addition, please provide me sufficient advance notice prior to any such disclosure to allow Verizon to pursue appropriate remedies to preserve the confidentiality of the information.

Sincerely,



Joseph DiBella